

Application Serial No. 10/568,209  
Reply to Office Action of January 6, 2009

PATENT  
Docket: CU-4693

### REMARKS

In the Office Action, dated January 6, 2009, the Examiner states that Claims 72-91 are pending, and Claims 72-91 are rejected. By the present Amendment, Applicant amends the claims and the specification.

In the Advisory Action dated May 22, 2009, the Examiner indicated that all the amendments that were filed in the After Final Amendment dated March 31, 2009, have been entered into the record and are not, therefore, repeated herein.

In the Claims section, please newly add claim 92. Claim 92 has been added to clarify the configuration of the stacked plant pots and the elongated body route through the stacked pots. No new matter has been added by way of this amendment. Support for the amendment can be found, for instance in the figures of the application. The new claim can be viewed in the Amendments section in the Listing of Claims beginning on page 4 of this paper.

Claims 72-74, 76-81 and 83-90 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stone (GB 2,369,980) in view of Lund (5,555,676).

The Applicant respectfully disagrees because not all of the features of the claims are taught, suggested, or disclosed by the references.

The Applicant respectfully draws the Examiners attention to the emphasized portions of claim 72 as follows:

Claim 72

A plant pot which, in use, is adapted to be stacked with one or more similar plant pots, said plant pot comprising:

- a cavity defined by a bottom wall and a side wall of the plant pot;
- an overflow outlet adapted to enable excess liquid to flow out of said cavity;
- an elongated body;
- a centrally located aperture adapted to have the elongated body pass through the bottom wall;**
- a recess formed in the bottom wall opposite the cavity; and
- a pump located in the recess, the pump being in fluid communication with the elongated body.

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Claim 72 has a combination of features including "a centrally located aperture adapted to have the elongated body pass through the bottom wall." (*Emphasis added.*) This feature is not found in Stone. Stone provides that "a container 10 comprises an upper, open compartment 12 and a lower enclosed compartment 14 separated by a dividing wall 24." (Stone page 4, paragraph 3; and also Figure 1.) The Lund disclosure does not cure the defect found in Stone.

In the Advisory Action issued on May 22, 2009 the Examiner indicated that Stone does provide the features of claim 72, in particular the "centrally located aperture adapted to have the elongated body pass through the bottom wall". The Applicant respectfully draws the Examiners attention to Figure 1 of Stone, as referenced by the Examiner in the Advisory Action, to illustrate that not only are the apertures (28) *not* centrally located but rather the apertures (28) are located to the side, but in addition, the apertures (28), pass through the "dividing wall" (24). This "dividing wall" is not the bottom wall of the individual plant pot. The "dividing wall" divides the "open compartment" (12) and the "lower enclosed " (14) compartments of the Stone plant pot. A person skilled in the art understands that the "bottom wall" is defined in the present application as the "base" of the plant pot and is clearly designated with reference numeral 3. By way of comparison, the bottom wall of the present invention should correspond to the bottom portion of the "lower enclosed compartment 14" and not to the "dividing wall". Unlike the present invention, the "lower enclosed compartment 14" has a *non*-centrally located aperture, or a "discharge outlet 18", and the configuration of this *non*-centrally located aperture is *necessary* for the Stone system to work by the "discharge outlet 18" receiving spill off from the "reservoir 26". So, although the appropriate feature related to the bottom wall would be the bottom portion of the "lower enclosed compartment 14", the Applicant submits that neither the "dividing wall" nor the "lower enclosed compartment" have a centrally located aperture as in Claim 72 of the present invention.

The Applicant submits that since the references, in whole or in combination, do not disclose or suggest all of the features of claim 72, claim 72 is non-obvious and

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allowable. It is axiomatic that if an independent claim is allowable, then a claim dependant therefrom is likewise allowable. The Applicant respectfully request that the remarks made over claim 72 be both reflected in the dependant claims, 73-74, 76-81, and 83-90, and also overcome the rejection of those claims as well. The Applicant respectfully submits that claims 72-74, 76-81, and 83-90 are non-obvious and request that the Examiner withdraw this ground of rejection of these claims.

The Examiner also rejected claim 75 under 35 U.S.C. §103(a) as obvious over Stone in view of Lund and in further view of Russell (U.S. 61,877); claim 82 over Stone in view of Lund and further in view of Johnson, Sr. (U.S. 3,452,475); and claim 91 as unpatentable over Stone in view of Lund and further in view of Keats (WO 1998/056233). The Applicant respectfully submits that Stone and Lund, in whole or in combination, do not disclose or suggest all of the features of independent claim 72, and therefore, the fact remains that claim 72 is non-obvious and patentable and that the dependant claims are likewise non-obvious and patentable. The Applicant submits, therefore, that since claims 75, 82, and 91 depend from independent and allowable claim 72, claims 75, 82, and 91 are also non-obvious and patentable. The Applicant further respectfully requests that the Examiner withdraw this ground of rejection as to claims 75, 82, and 91.

In light of the foregoing response, all the outstanding objections and rejections are considered overcome. The Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

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Date

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